



Public Notice

Applicant:
E.R. Rule & Sons

Date:
Published: January 7, 2004
Expires: February 5, 2004

**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District **CELRB-TD-R RE:** 96-973-0194(1) **Section:** NY 404

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

David E. Rule, 4 Rule Drive, Arcade, New York, 14009, proposes channel work in Elton and Stone Quarry Creeks, in order to restore the original channel alignment and flow of Elton Creek and to reduce bank erosion caused by the confluence of Stone Quarry Creek with Elton Creek. The proposed project is located near the County Route 21 and Stone Quarry Road intersection, in the Town of Arcade, Cattaraugus County, New York.

The project consists of the following:

- a. Returning Elton Creek's flow to its original channel alignment by excavating an approximately 400 foot long gravel bar deposit and using this material to backfill the existing channel.
- b. Filling in approximately 138 feet of the Stone Quarry Creek channel where it intersects with the Elton Creek channel.
- c. Redirecting the Stone Quarry Creek flow, where it intersects with the Elton Creek flow. This will be accomplished by the installation of a railroad tie revetment at the mouth of Stone Quarry Creek.
- d. Installing three Bend-Way weirs and a heavy rock grade stabilizer, upstream of the Stone Quarry Creek/Elton Creek confluence. The proposed structures will redirect the channel flow towards the center of the newly created Elton Creek channel and away from the filled channel.
- c. Stabilizing the filled channel by planting clumps of Purple Oiser and Black Willow.
- d. Seeding all disturbed areas, post-construction, with a Birdsfoot Trefoil/Tall Fescue/Perennial Ryegrass seed mixture.

The stated purpose of the project is to restore the original channel alignment and flow of Elton Creek and to reduce bank erosion - along the west bank of Elton Creek, caused by the confluence of Stone Quarry Creek with Elton Creek.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Joseph W. Krawczyk, who can be contacted by calling (716) 879-4186, or by e-mail at: joseph.w.krawczyk@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, and should be marked to the attention of Joseph W. Krawczyk, or by e-mail at: joseph.w.krawczyk@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit

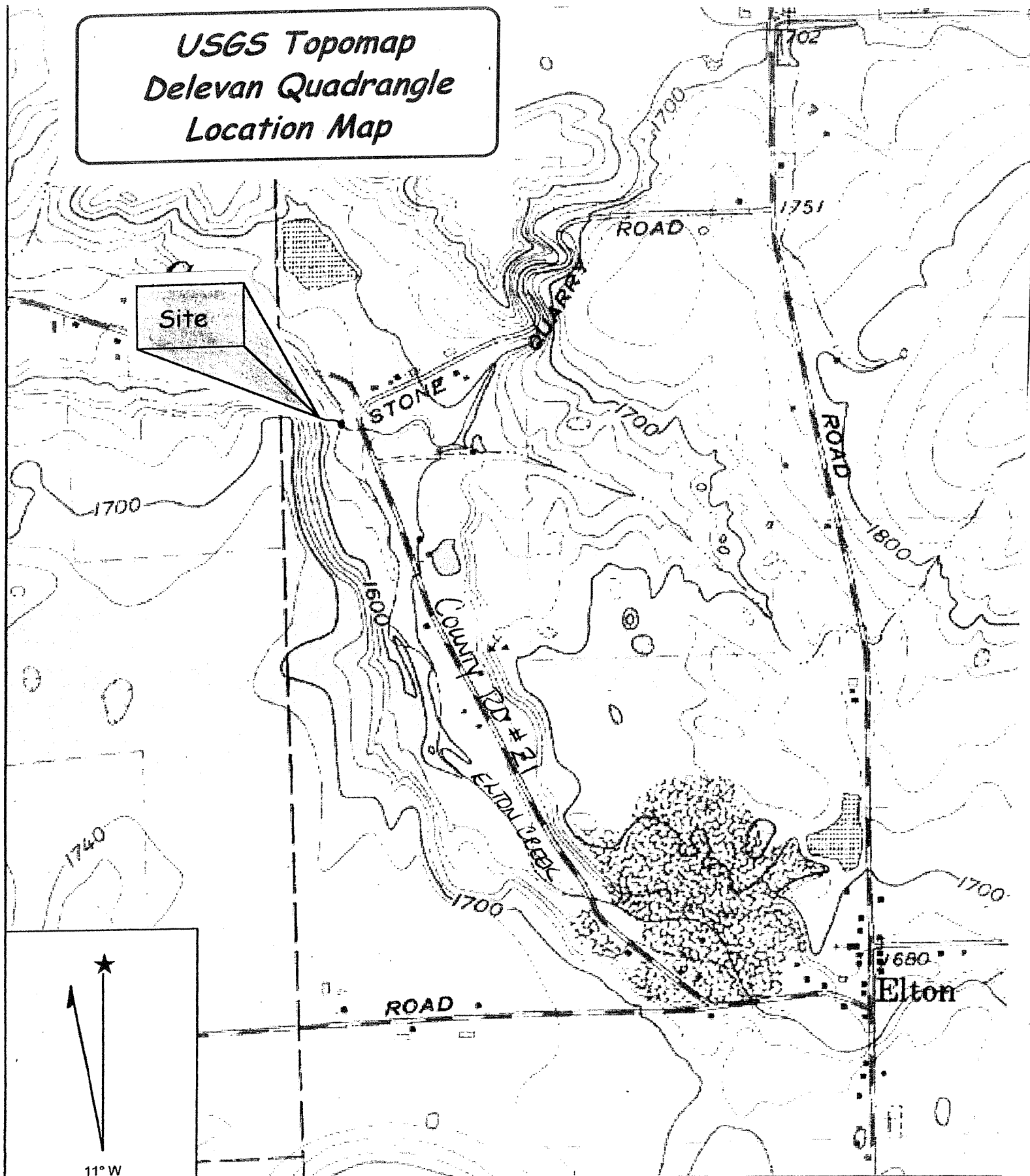
for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

A handwritten signature in black ink, appearing to read "Thomas C. Switala", with a small "for" written below it.

Thomas C. Switala
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.

*USGS Topomap
Delevan Quadrangle
Location Map*



Name: DELEVAN
Date: 5/2/2003
Scale: 1 inch equals 1000 feet

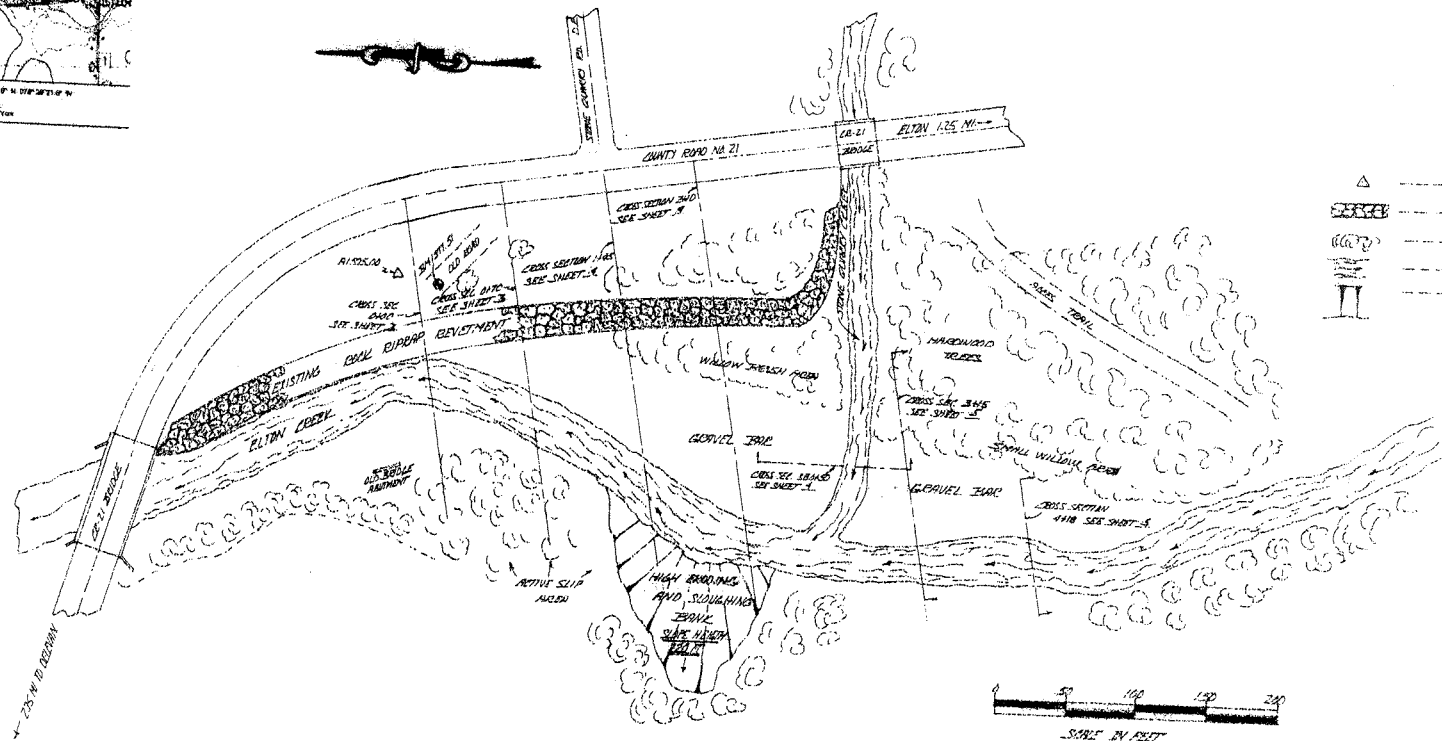
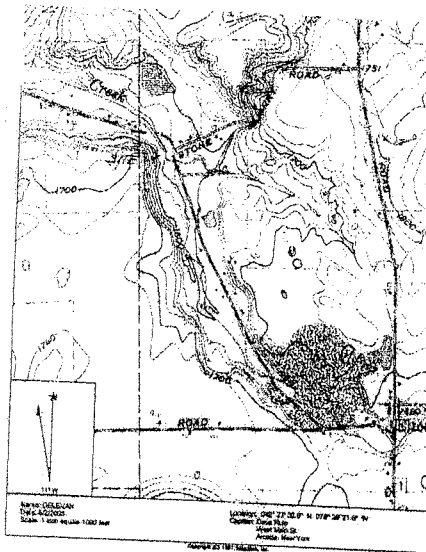
Location: 42° 27' 32.8" N 078° 26' 21.5" W
Caption:

E.R.RULE & SONS
D/A Processing No. 96-973-0194(1)
Cattaraugus County, New York Quad:
Sheet 1 of 9

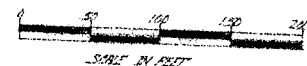
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Elton Creek Project

Site Location: County Rd. 21, Town of Freedom
Cattaraugus County, NY

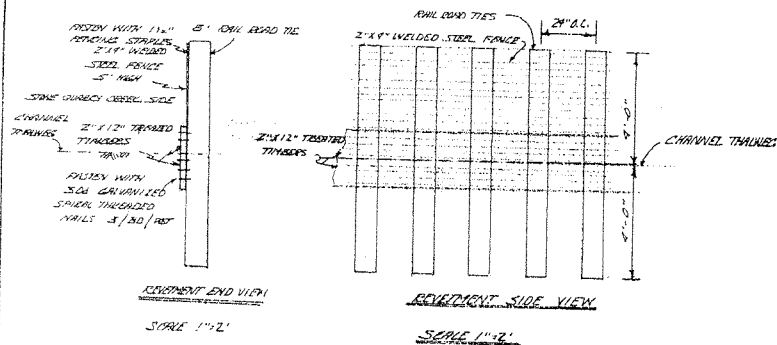


- Legend**
- △ Survey Reference Station
 - Existing Rock Riprap
 - Brush/Trees
 - Channel Flow
 - Eroding & Sloughing Bank

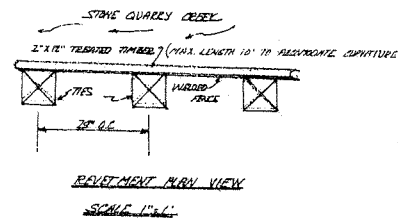


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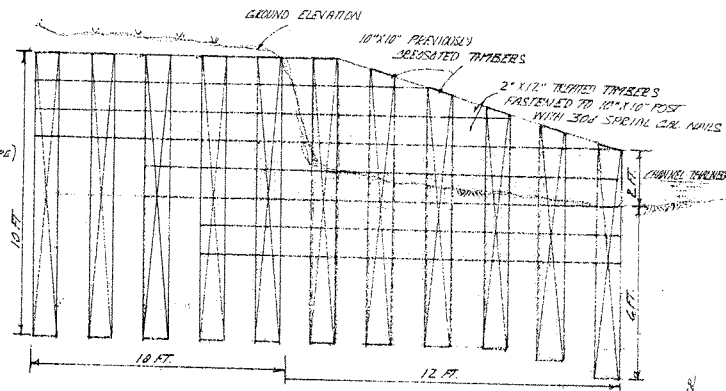
E. R. Rule & Sons -- Elton Creek Project			
Existing Features			
Drawn: R. Rule, P.E., Town of Freedom, Cattaraugus County, NY			
Scale: 1" = 40'	AKS: AutoCAD	Entered by: R. Rule	Checked by: R. Rule
Original Date: 08/04/03	AKS: AutoCAD	Entered by: R. Rule	Checked by: R. Rule
Revised Date: 08/04/03	AKS: AutoCAD	Entered by: R. Rule	Checked by: R. Rule
Revised Date: 08/04/03	AKS: AutoCAD	Entered by: R. Rule	Checked by: R. Rule
Sheet 2 of 9			



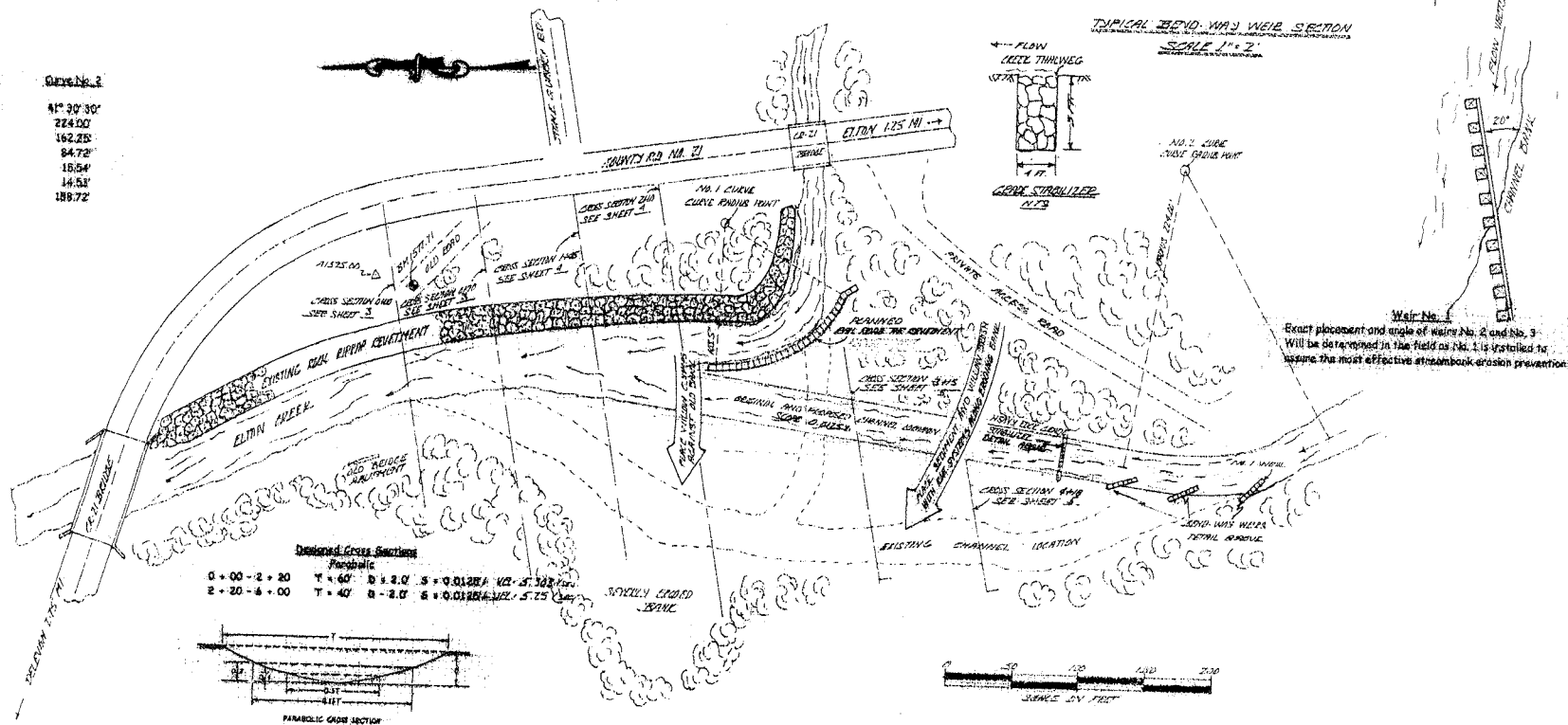
All Railroad Ties that have been treated with creosote will be aged for at least 3 months prior to installation.



All Pressure Treated Timber will be in accordance with the American Wood Preservative Association Standard & Building Code Requirements.



Curve Data	Curve No. 1	Curve No. 2
Delta	62° 29' 28"	41° 30' 30"
Radius	103.50'	224.00'
Curve Length	114.71'	162.25'
Tangent Length	64.05'	84.72'
External	18.21'	16.54'
Middle Ordinate	15.49'	14.51'
Cord Length	108.93'	188.72'

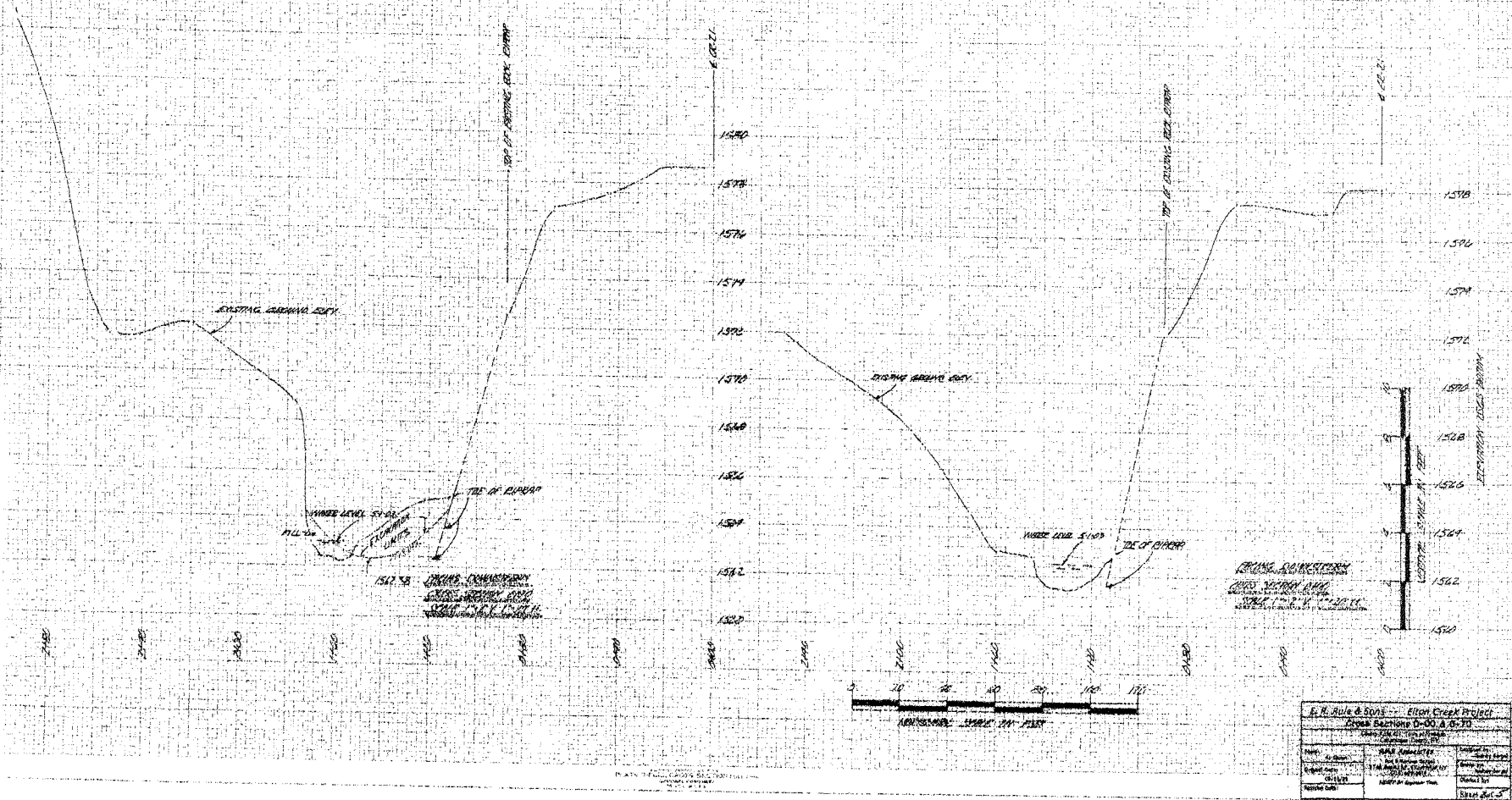


Weir No. 1
Exact placement and angle of Weir No. 2 and No. 3
Will be determined in the field as No. 1 is installed to
ensure the most effective streambank erosion prevention.

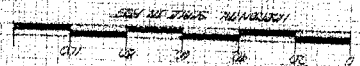
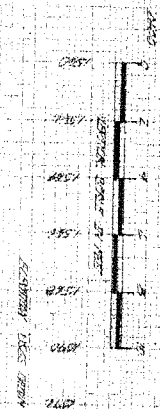
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E. R. Rule & Sons - Elton Creek Project			
Site Plan			
Drawn by E. R. Rule & Sons			
Sheet	Scale	Project	Drawn by
Sheet 3 of 9	1" = 2'	Elton Creek Project	E. R. Rule & Sons
Project	Elton Creek Project	Project	Elton Creek Project
Project	Elton Creek Project	Project	Elton Creek Project
Project	Elton Creek Project	Project	Elton Creek Project

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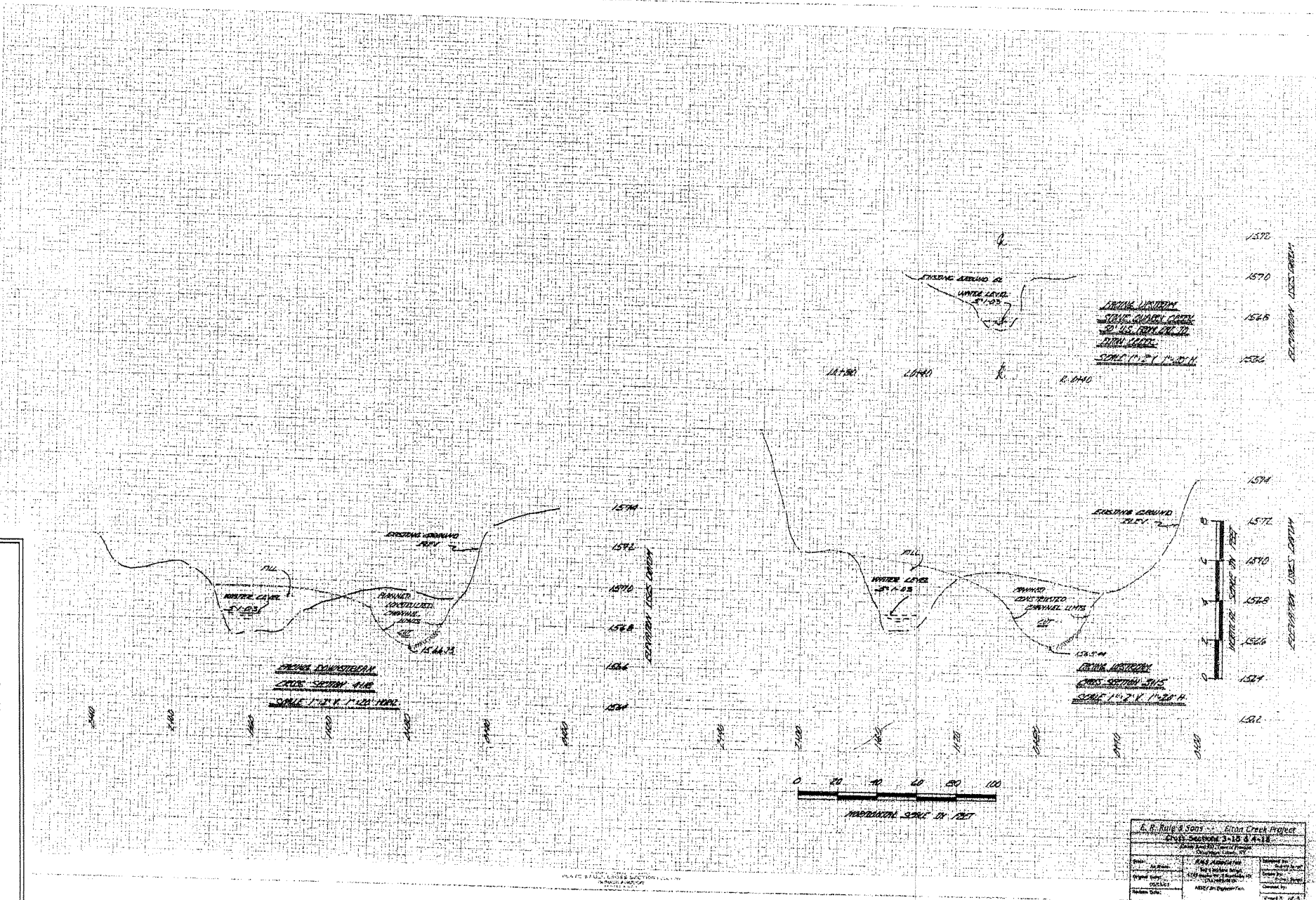


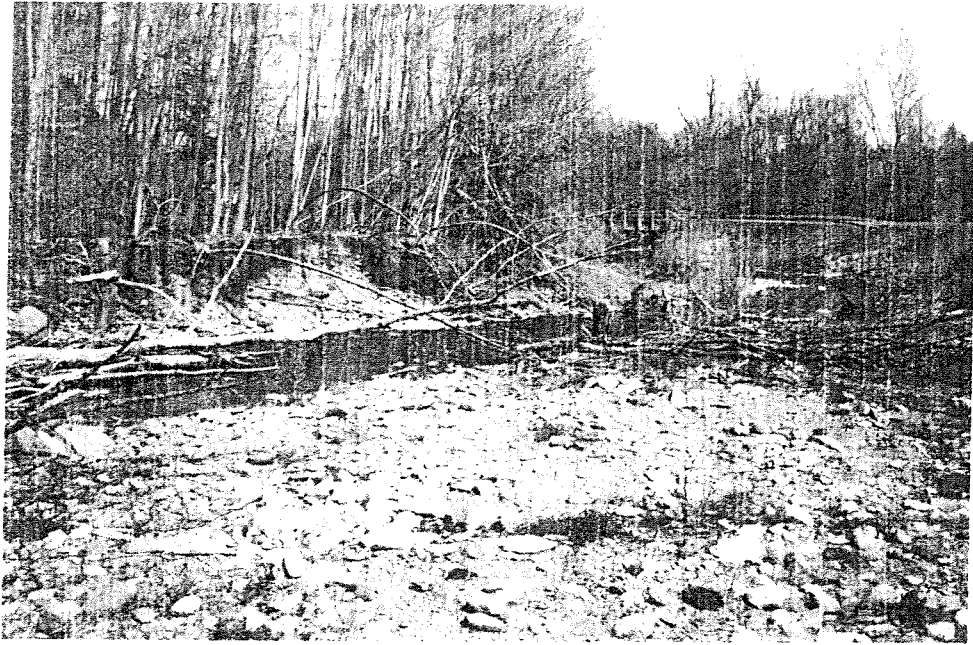
DATE	10/1/78	BY	E.R. Rule & Sons
PROJECT	10/1/78	BY	E.R. Rule & Sons
DESCRIPTION	10/1/78	BY	E.R. Rule & Sons
LOCATION	10/1/78	BY	E.R. Rule & Sons
SCALE	10/1/78	BY	E.R. Rule & Sons
REVISIONS	10/1/78	BY	E.R. Rule & Sons
APPROVED	10/1/78	BY	E.R. Rule & Sons
DATE	10/1/78	BY	E.R. Rule & Sons



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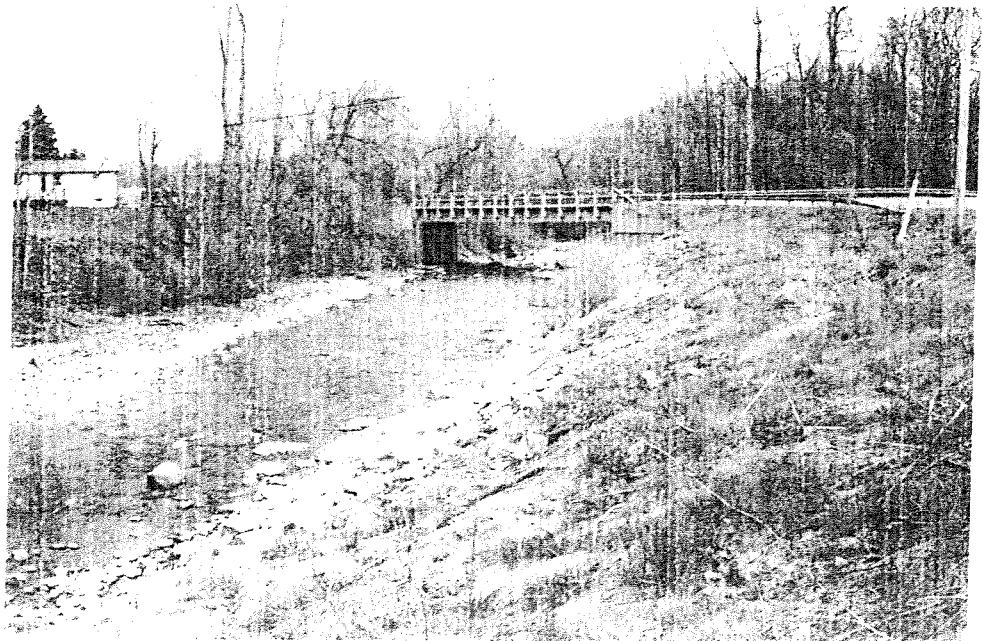
Looking Downstream - Gravel bar to be removed
and more bank eroding downstream
Elton Creek Bridge in background



Looking Upstream - Shows overgrown native trees and
brush in channel where original creek flowed



Facing Upstream - Shows eroding high bank with
large trees sloughing into creek
Also shows large rock rip along left bank (not being used) --
Channel has taken on a new route



Facing Downstream -- County Road 21 Bridge over Elton Creek



Looking Downstream - Project Area - gravel bar, right bank
existing rock rip rap not being taken advantage of,
and downstream characteristics



Looking Upstream of Stone Quarry Creek
Shows current stream characteristics
Same gravel as above photo on Elton Creek
Stone Quarry Creek Culvert under County Road 21